

STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD

In re: MVP 2021 Large Group HMO                    )  
  )    GMCB-008-20rr  
  )

**OFFICE OF THE HEALTH CARE ADVOCATE MEMORANDUM IN LIEU OF  
HEARING**

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) for the opportunity to respond to the MVP Health Plan, Inc. (MVP) 2021 Large Group HMO rate filing (Filing). MVP’s proposed rate request will affect approximately 2,100 Vermonters.<sup>1</sup> MVP has failed to justify the increase of its Contribution to Reserves (CTR) from 1% in 2020 to 2% in 2021. Additionally, as it did in its 2021 Vermont Health Connect filing, MVP makes unreasonable Covid-19 assumptions including an 80% vaccination rate and a 110% utilization rate to “make up” for foregone elective care. MVP also does not account for how its growing Vermont membership should reduce its administrative costs. Lastly, the Filing’s medical unit cost increases should be updated to reflect the 2021 hospital budgets approved by the Board.

This is not the time to ask Vermonters and Vermont businesses to pay more than is absolutely necessary for their insurance premiums. Vermonters and Vermont businesses have done an excellent job controlling the spread of Covid-19, an admirable achievement that has unfortunately caused them great financial hardship. Vermonters are facing enormous affordability challenges in the current economic disaster, and the public health crisis has intensified the importance of promoting access to care through relatively affordable insurance coverage. In addition, members of MVP’s large group plans endured a double-digit rate increase for 2020, a year when many have foregone care due to Covid-19 that resulted in MVP collecting

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<sup>1</sup> GMCB-008-20rr, L&E Actuarial Mem. at 1.

more premium relative to claims. Therefore, we respectfully request that the Board amend the proposed rate in line with its decision in MVP's Vermont Health Connect filing by lowering MVP's CTR to 0.5% and applying the same assumptions regarding Covid-19 and administrative cost reductions due to increasing membership.<sup>2</sup> In addition, we ask the Board to apply the actual hospital budget decisions to the assumed unit costs.

### ***I. STATUTORY BACKGROUND***

MVP bears the burden of demonstrating that its proposed rate meets the multi-faceted test governing the lawfulness of a rate increase in Vermont: that the requested rate is affordable; promotes quality care; promotes access to health care; protects insurer solvency; is not unjust, unfair, inequitable, misleading, or contrary to law; and is not excessive, inadequate, or unfairly discriminatory.<sup>3</sup>

When deciding whether to approve, modify, or disapprove a rate request, the Board must determine whether the insurer has met each of the statutory criteria.<sup>4</sup> The Board may modify the proposed rate or any element of the rate. Vermont law also directs the Board to consider changes in health care delivery, changes in payment methods and amounts, and other issues at its discretion.<sup>5</sup> Lastly, the Board is statutorily charged with ensuring that MVP provides benefits and services to Vermonters at minimum cost under efficient and economical management.<sup>6</sup>

The Board must accept comments from the public and from the HCA on all topics relevant to the proposed rate, and from the Department of Financial Regulation (DFR) on the limited subject of the impact of the filing on the insurer's solvency and reserves.<sup>7</sup> The Board is not bound by the

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<sup>2</sup> GMCB-006-20rr, Decision at 12-14.

<sup>3</sup> 8 V.S.A. §4062; 18 V.S.A. §9375.

<sup>4</sup> 8 V.S.A. §4062(a)(3).

<sup>5</sup> 18 V.S.A. §9375(b)(6).

<sup>6</sup> 8 V.S.A. §§4513(c), 4584(c), 5104(b).

<sup>7</sup> 8 V.S.A. §§4062(a)(2)(B), 4062(c), 4062(e)(1)(B).

views of DFR, the public, or the HCA but must consider them. The Board is also not bound by the opinion of its consulting actuary.<sup>8</sup>

II. ***MVP HAS FAILED TO CARRY ITS BURDEN WITH RESPECT TO EACH OF THE CRITERION ON WHICH THE BOARD MUST MAKE A DETERMINATION***

**A. The Requested Rate Increase is Not Affordable**

Vermonters are in an affordability crisis. As the Board is aware, we are faced with the tragic scenario of existing and increasing mass household insolvency. Due to the sacrifices Vermonters and Vermont businesses are making to control the Covid-19 pandemic, they currently face economic straits that have not been seen for decades, if ever in their lifetimes: spiking unemployment, dramatic workforce contractions, loss of income, and rising basic necessity prices.

In July and August 2020, 8.2% and 4.8%, respectively, of Vermonters in the labor force were unemployed.<sup>9</sup> This rate is approximately twice as high as it was at the same time last year and equates to over 15,000 unemployed Vermonters.<sup>10</sup> It should be noted that the unemployment rate likely underestimates the scope of the current crisis as it does not count Vermonters who have given up looking for a job or the difficulties attendant to securing a new job given public health restrictions. The underestimate is not just a theoretical possibility at the current moment: the number of Vermonters filing for unemployment benefits is, in fact, substantially higher than the number of unemployed persons in the labor force as indicated by the unemployment survey.

Increasing unemployment often coincides with business contraction. Across all private industries, the number of Vermonters in nonfarm payroll employment has decreased 12.9% since August 2020.<sup>11</sup> Among Vermonters who are still employed, many have experienced a loss of

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<sup>8</sup> See 8 V.S.A §4062.

<sup>9</sup> Vt. Dep't of Labor, August 2020 Local Area Unemployment Statistics (Sept. 18, 2020), [www.vtmi.info/laus.pdf](http://www.vtmi.info/laus.pdf).

<sup>10</sup> Id.

<sup>11</sup> Vt. Dep't of Labor, August 2020 Current Employment Statistics at Table 3 (Sept. 18, 2020), [www.vtmi.info/ces.pdf](http://www.vtmi.info/ces.pdf).

income due to the Covid-19 crisis. From March 13, 2020 through September 14, 2020, 46% of Vermonters over age 18 lost employment income. This overall statistic obscures substantial variation in income loss by educational attainment and race. Whereas 41% of Vermonters with bachelor's degrees or higher have lost employment income, 49% of Vermonters with less than a bachelor's degree have lost employment income. Variation in the loss of employment income is even more pronounced when broken out by race: 57% of Asian Vermonters and 81% of multi-racial Vermonters over age 18 lost income during that period compared to 46% of White Vermonters.<sup>12</sup>

At the same time that incomes have dropped and Vermont's unemployment rate has risen, the cost of basic necessities has increased. The Food at Home price index rose 4.1% over the 12-month period ending September 2020 and all six major grocery store food indexes rose over that same span.<sup>13</sup> Whether indicated by unemployment, business contraction, lost income, or the cost of basic necessities such as food, Vermonters are facing unprecedented financial hardships with no clear end in sight. At the same time, MVP is seeking to further burden Vermonters by failing to keep their CTR and administrative costs in check and overestimating cost assumptions related to Covid-19 vaccinations and provider operations.

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<sup>12</sup> U.S Census Bureau, Week 14 Household Pulse Survey, Employment Table 1, [www.census.gov/data/tables/2020/demo/hhp/hhp14.html](http://www.census.gov/data/tables/2020/demo/hhp/hhp14.html).

<sup>13</sup> U.S Bureau of Labor Statistics, September Consumer Price Index Summary (Oct. 18, 2020).

## **B. The Proposed Rate Increase is Unnecessary for Insurer Solvency**

DFR stated that MVP's "Vermont operations pose little risk to its solvency."<sup>14</sup> Given the fact that Vermonters and Vermont businesses are facing unprecedented challenges and MVP is under no threat of insolvency, there is no reasonable justification to increase CTR. We ask that the Board approve a 0.5% rate increase for this filing, in line with its decision on MVP's Vermont Health Connect filing.<sup>15</sup>

## **D. The Proposed Rate Is Excessive and Unjust, Unfair, and Misleading**

When considering the actuarial criteria, the Board's actuarial firm, Lewis and Ellis (L&E), found the rate to be excessive and recommended that the Board lower the rate by reflecting "the final orders regarding FY2021 hospital budgets" and by removing MVP's Covid-19 pent-up demand adjustment and reducing the Covid-19 vaccination adjustment to a 55% vaccination rate.<sup>16</sup> The Board made these same changes to MVP's Vermont Health Connect Filing, with the exception that the hospital budgets were not yet final.<sup>17</sup> We agree with L&E that the proposed rate is excessive and support L&E's suggested adjustments.

In addition, the increased administrative costs coupled with observed membership growth is unreasonable. As the Board stated in the latest MVP Vermont Health Connect Filing decision, "In light of the financial challenges facing Vermonters and the cost saving measures businesses, schools, and state and local governments are implementing, such as furloughs and wage freezes, we disagree with MVP's choice to increase its administrative expenses by \$1.75 PMPM this year."<sup>18</sup> The Board noted that MVP's growing Vermont membership should allow it to lower its

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<sup>14</sup> GMCB-008-20rr, Dep't Fin. Regulation at 6.

<sup>15</sup> GMCB-006-20rr, Decision at 16.

<sup>16</sup> GMCB-008-20rr, L&E Actuarial Mem. at 9.

<sup>17</sup> GMCB-006-20rr, Decision at 17.

<sup>18</sup> Id. at 15.

administrative costs.<sup>19</sup> The Board ordered the insurer to lower its rate “to reflect [the Board’s] reasonable expectation that MVP lower its administrative costs this year.”<sup>20</sup>

In the present filing, MVP is similarly benefiting from increasing Vermont membership. MVP reported 1,798 members in its Vermont large group plans as of April 2019<sup>21</sup> and reported 2,058 members as of February 2020, a 14.4% increase.<sup>22</sup> In the Filing, MVP defends the increased administrative expense load from 8.2% to 8.6%: “since MVP is proposing a rate decrease, a higher percent of premium is needed to achieve the desired administrative costs.”<sup>23</sup> However, assuming, as MVP stated, that Vermonters will experience, on average, a -0.9% premium decrease,<sup>24</sup> both the aggregate and PMPM dollars devoted to administrative expenses will increase, in addition to the administrative load as a percentage of premium. In short, using any metric, Vermonters will be paying more for administrative expenses despite MVP’s increasing membership in this book of business.

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<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> GMCB-008-19rr, Decision at 2.

<sup>22</sup> GMCB-008-20rr, MVP Actuarial Mem. at 1.

<sup>23</sup> Id. at 7.

<sup>24</sup> GMCB-008-20rr, MVP Response to Objection Letter #2 at 1.

### ***III. CONCLUSION***

In this time of public health and economic crisis, Vermonters are suffering. At the same time, MVP is benefiting financially due to substantially reduced utilization. MVP's filing includes several points that are excessive, and MVP is in a strong solvency position. In light of all of these factors, we ask the Board to do what is best for Vermonters during this time of crisis and reduce MVP's CTR to 0.5%, reduce the proposed premium price to account for final hospital budget orders, remove from the rate the 110% utilization and 80% vaccination assumptions, and reduce the administrative load.

Dated at Montpelier, Vermont this 28th Day of October, 2020.

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## CERTIFICATE OF SERVICE

I, Eric Schultheis, hereby certify that I have served the above Office of the Health Care Advocate Memorandum In Lieu of Hearing on Michael Barber, Green Mountain Care Board General Counsel; Amerin Aborjaily, Green Mountain Care Board Staff Attorney; and Gary Karnedy and Michelle T. Bennet of Primer Piper Eggleston & Cramer PC, representatives of MVP in the above-captioned matter, by electronic mail, return receipt requested, this 28th day of October, 2020.

*s/ Eric Schultheis*

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